

ADMINISTRATIVE COUNCIL MEETING

Meeting Minutes

April 16, 2008

Administrative Council

Members Present:

Phil Griffiths (EEA), Jim Colman (MassDEP), Laura Marlin (DOS), April Anderson Lamoureux (HED), Suzanne Condon (DPH)

Others Present:

Rich Bizzozero (EEA), Mike Ellenbecker (TURI), Liz Harriman (TURI), Heather Tenney (TURI), Rachel Massey (TURI), Glenn Keith (MassDEP), Meg Blanchet (DPH), Carolyn Fiore (MWRA), Peter Blake (NEFA), Stephen Gauthier (IUE-CWA), John Raschko (OTA), Martin Reynolds (OTA)

I. Call to Order and Introductions

- ❖ Phil Griffiths opened the meeting and attendees introduced themselves.

II. Approval of Minutes

- ❖ A motion was made and seconded to adopt the minutes from the March 5, 2008 meeting. The motion was passed unanimously.

III. Policy Update: Perchloloethylene

- ❖ Rich Bizzozero summarized possible regulatory approaches for dry cleaners should perchloroethylene (PCE) be designated a higher hazard substance (HHS). Options include: placing users in the TURA program; allowing users to “self certify” as part of the Environmental Results Program (ERP) for dry cleaners; or regulating users under a hybrid of TURA and ERP programs for dry cleaners. Rich said that during discussions with EEA and MassDEP legal teams, statutory concerns had surfaced that may limit these options. The legal staffs continue their discussions and as more information becomes available, it will be distributed to the Council.
- ❖ Two Council members commented on the “Nordic study,” which had been referenced in March by an industry representative. The industry representative said the study found no link between PCE and cancer. Council members said the Nordic study was not comparable to other more comprehensive studies and it only addressed one type of cancer and not the full range of risks.
- ❖ During the March Council meeting, several questions were raised by members, industry representatives and the public concerning the implications of designating PCE as a HHS. Rachel Massey addressed the questions by summarizing reports, which are attached: “Proposed Higher Hazard Designation for PCE: Questions and Answers about Implications for Dry Cleaners” and “Financial analysis for garment cleaners: Implications of participating in the TURA program.”

- ❖ An open discussion raised questions concerning: the rationale for prioritizing PCE as a HHS; the number of PCE users who are not dry cleaners; and whether the TURA program is positioned to provide the level of assistance California offers to dry cleaners affected by PCE regulation. Discussion points included:
 - As described in the “Questions and Answers” document, of the 11 substances or categories recommended by the Science Advisory Board (SAB) for higher hazard designation, three have already been designated as HHS (TCE, cadmium, and cadmium compounds). Ethylene oxide is primarily used by hospitals, which do not file under TURA, and hydrogen cyanide is used by a very small number of facilities. Of the remaining five substances, the TURA program estimates that PCE is likely to have the largest number of users that are in TURA-covered SIC codes. Even if another substance were put forward as a higher priority for 2008, PCE still would be considered for designation as a HHS within the next two years.
 - A Council member asked how many PCE users there are in the state that are not dry cleaners. TURI staff mentioned an approximate figure of 30 users. More specifically, as noted in the PCE policy analysis dated March 4th, TURI has estimated that a higher hazard designation for PCE would affect between 70 and 160 filers, of which 40 to 100 would be dry cleaners.
 - A Council member asked whether Massachusetts has the ability to provide grants to dry cleaners, similar to those provided to cleaners in California. (The California Air Resources Board assesses a fee on distributors that sell PCE to dry cleaners. The collected funds are used to provide \$10,000 grants to assist dry cleaners to switch from PCE to non-toxic and non-smog forming cleaning technologies). Program staff explained that the TURA program can use part of its annual budget to provide grants, although it would not be able to provide as large a number of grants as the California program. TURI staff noted that TURI is providing one grant of \$17,000 this year to create the state’s first 100% wet cleaning demonstration site.
- ❖ In response to Phil’s question concerning the overall effectiveness of PCE regulation in California, Rachel said the program is considered very successful.
- ❖ A discussion centered on the cost of replacing PCE equipment. TURI estimated that replacing PCE units with similar equipment would cost about \$60,000 per machine, and that wet-cleaning equipment costs \$70,000 to \$80,000 per installation, including the cost of tensioning equipment. *TURI staff checked this figure after the meeting and learned that the estimated costs for both PCE and wet cleaning equipment are somewhat lower than the figures cited at the meeting. Costs for PCE units are approximately \$40,000 to \$50,000, while costs for wet cleaning systems range from \$50,000 to \$70,000 per installation, including the cost of tensioning equipment. Costs are approximate in both cases, and may vary with type of equipment purchased, time of purchase, and other factors. An industry representative said that the useful life of dry cleaning equipment is about 15 years and about 30 units are replaced yearly.*

- ❖ A Council member asked if it was appropriate to designate PCE as a HHS substance given that the switchover to non-PCE units is already underway. TURI staff said that the designation will help facilitate and accelerate the transition and the program could educate and direct dry cleaners to viable, less toxic alternatives.
- ❖ Jim Colman urged consideration of a PCE regulatory approach reflecting the best practices of TURA and ERP so that reporting and other facility costs can be minimized. Phil said he encouraged agency partners to continue discussing regulatory options.
- ❖ Phil was told by TURI that data from a pilot study of a facility that replaced PCE would be available during the next year.

IV. CERCLA Chemical Retention – TURI Recommendation

- ❖ Mike Ellenbecker next summarized TURI's review of CERCLA chemicals. His handouts included a "Briefing on the CERCLA Chemical Review Process," Recommendations Regarding CERCLA Chemical Retention on the Toxic or Hazardous Substance List," and two policy analyses: "Recommendation to retain certain CERCLA chemicals that have been reported by TURA filers," and "Recommendation to take no action on certain CERCLA chemicals that have been reported by TURA filers."
- ❖ TURI supports all of the SAB's recommendations except those for the sodium phosphates. The SAB recommended retaining the sodium phosphate, while TURI is recommending no action on these substances.
- ❖ Jim asked if the Council has the authority to consider secondary impacts, such as potential phosphate loading of rivers and streams leading to eutrophication, during deliberations. TURA program staff responded that they believe the Council has the authority, however they will confirm that interpretation with EEA legal staff.
- ❖ Council members discussed the requirement for and timing of a public comment period to review CERCLA chemical actions. A member voiced concern that the public will be confused by the implications of a yes vote, or a vote to "not retain."
- ❖ An Advisory Committee member who represents industry and labor urged the Council to consider labor concerns during its deliberations. Jim asked if there is an opportunity for Advisory Committee members to forward comments on regulatory initiatives to the Council.
- ❖ There was a discussion of the implications of the August 1, 2008 deadline and how that date might affect the scheduling of a public comment period. Rich said he will seek clarification of what the Council must accomplish by August 1, 2008.
- ❖ Phil suggested the issuance of a memo to Advisory Committee members formally soliciting their comments and inviting them to Council meetings. He also suggested Rich meet with TURA program counsels to clarify deadlines for CERCLA list actions.
- ❖ Council members requested a lead time of two weeks to review new material prior to a meeting and three weeks if a vote is pending.

V. Schedule Next Meeting

- Phil suggested meeting on June 18, 2008 at 9 AM, with May 14, 2008 as an alternate date if action warrants an earlier meeting.

VI. Adjourn

There being no further business, Phil Griffiths adjourned the meeting.

Documents distributed by TURI:

“Proposed Higher Hazard Designation for PCE: Questions and Answers about Implications for Dry cleaners”

“Financial analysis for garment cleaners: Implications of participating in the TURA program” and Summary of financial analysis for garment cleaners: Implications of participating in the TURA program”

“Briefing on the CERCLA Chemical Review Process”

“Recommendations Regarding CERCLA Chemical Retention on the Toxic or Hazardous Substance List”

“Policy Analysis: Recommendation to retain certain CERCLA chemicals that have been reported by TURA filers”

“Policy Analysis: Recommendation to take no action on certain CERCLA chemicals that have been reported by TURA filers”

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